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December 3, 2020

SENT VIA ELECTRONIC MAIL ONLY [luly.massaro@puc.ri.gov]:

Luly E. Massaro
Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, Rhode Island 02888

RE: Docket 5088 – 2021 Renewable Energy Growth Program
Carport Adder Pilot Evaluation and Request for Confidential
Treatment

Dear Ms. Massaro:

On behalf of the Rhode Island Office of Energy Resources (“OER”), enclosed, please find a redacted version of the “RI Renewable Energy Growth Program 2020 Carport Adder Pilot Evaluation” (“Evaluation”)¹. The Evaluation represents a part of OER’s “Recommendations for the 2021 Renewable Energy Growth Program Year” (“Recommendations”), more specifically, “KD Schedule 1 – 2020 Program Year Carport Solar Pilot Program Evaluation Report”, which may be found at Page 71 of the Recommendations.

¹ The enclosed as well as a confidential unredacted version of the same, were originally filed via electronic mail with the Rhode Island Public Utilities Commission on November 17th, 2020.

Pursuant to 810-RICR-00-00-1.3(H)(3) and Rhode Island General Laws § 38-2-2(4)(B), OER respectfully requests that the Rhode Island Public Utilities Commission (“Commission”) treat the information redacted in the public version of the Evaluation as confidential. In support, OER has enclosed a Motion for Confidential Treatment. In accordance with 810-RICR-00-00-1.3(H)(2), OER also respectfully requests that the Commission make a finding that information redacted in the public version is exempt from the mandatory public disclosure requirements of the Rhode Island Access to Public Records Act (“APRA”).

Thank you for your attention to this filing. If you have any questions, please contact me at (401) 222-8211.

Sincerely,



Albert J. Vitali, III. Esq.

Enclosures

c. Docket 5088 Service List

STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION

IN RE: 2021 Renewable Energy Growth Program

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Docket 5088

**MOTION OF THE RHODE ISLAND OFFICE OF ENERGY RESOURCES
FOR PROTECTIVE TREATMENT OF
CONFIDENTIAL INFORMATION**

The Rhode Island Office of Energy Resources (“OER”) hereby respectfully requests that the Rhode Island Public Utilities Commission (“Commission”) grant protection from public disclosure certain confidential information submitted by OER in the above referenced docket. The reasons for protective treatment are set forth herein. Further, OER also requests, pending entry of that finding, the Commission preliminarily grant OER’s request for confidential treatment pursuant to 810-RICR-00-00-1.3(H)(2).

The records that are the subject of this Motion that require protective treatment from public disclosure may be found in (i) *Table 8: Incremental Costs of Projects Submitting REG Applications*; more specifically, *Large Solar (1,000 – 5,000 kW DC)* (referred to herein as the “Confidential Records”) that were filed by OER on November 17th, 2020 within an attachment titled “KD Schedule 1 – CONFIDENTIAL 2020_REG_Carport_Pilot_Evaluation_Report.pdf” in connection with a greater filing titled “Recommendations for the 2021 Renewable Energy Growth Program Year”. OER

requests protective treatment of the Confidential Records in accordance with 810-RICR-00-00-1.3(H) and Rhode Island General Laws § 38-2-2-4(B).

I. LEGAL STANDARD

When examining a claim for the protective treatment of information in matters before the Commission, one must look to the Access to Public Records Act (“APRA”), Rhode Island General Laws § 38-2-1 *et seq.* See 810-RICR-00-00-1.3(H)(1). Under APRA, any record received or maintained by a state or local governmental agency in connection with the transaction of official business is considered public unless such record falls into one of the exemptions specifically identified by APRA. See Rhode Island General Laws §§ 38-2-3(a) and 38-2-2(4). Therefore, if a record provided to the Commission falls within one of the designated APRA exemptions, the Commission is then authorized to deem such record confidential and withhold it from public disclosure.

II. BASIS FOR CONFIDENTIALITY

The Confidential Records that are the subject of this Motion are exempt from public disclosure pursuant to Rhode Island General Laws § 38-2-2(4)(B) as “[t]rade secrets and commercial or financial information obtained from a person, firm, or corporation that is of a privileged or confidential nature”. *The Attorney General’s Guide to Open Government in Rhode Island 6th Edition*² provides guidance as to the scope of Rhode Island General Laws § 38-2-2(4)(B)’s applicability. It reads:

If a request is made for financial or commercial information that a person is obliged to provide to the government, it is exempt from disclosure if the disclosure is likely either: (1) to impair the government’s ability to obtain information in the future, or (2) to cause

² <http://www.riag.ri.gov/Forms/AGguidetoopengovernment.pdf>

substantial harm to the competitive position of the person from whom the information was obtained. If a request is made for financial or commercial information that is provided to the government on a voluntary basis, it is exempt from disclosure if the information “is a kind that would customarily not be released to the public by the person from whom it was obtained.” *The Providence Journal Company v. Convention Center Authority*, 774 A.2d 40 (R.I. 2001).

The Confidential Records consist of financial and commercial information received from an energy analytics consulting firm, namely Sustainable Energy Advantage, LLC (“SEA”). OER would not customarily release this information to the public. OER provided the Confidential Records to the Commission to complete its filing. The Confidential Records are exempt from public disclosure because “the disclosure is likely...to cause substantial harm to the competitive position of the person from whom the information was obtained.” See *The Attorney General’s Guide to Open Government in Rhode Island 6th Edition*, p. 22.

The release of the Confidential Records is likely to cause substantial harm to the competitive position of SEA. The Confidential Records contain commercially sensitive market information, specifically, open enrollment bid amounts on a project’s total development cost. Using that data, SEA calculated the incremental average cost of carport structures. Disclosing the Confidential Records would inhibit SEA’s ability to protect its proprietary calculation methods thus affecting SEA’s ability to compete in the energy analytics consulting firm marketplace. SEA has historically protected such Confidential Records as exclusive information.

III. CONCLUSION

For the foregoing reasons, OER respectfully requests that the Commission grant this Motion for Protective Treatment of the Confidential Records.

Respectfully submitted,

Rhode Island Office of Energy Resources

By its attorney,



Albert J. Vitali (#9210)
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Division of Legal Services
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(401) 222-8211
Dated: December 3, 2020

CERTIFICATE OF SERVICE

I hereby certify that on December 3, 2020, I delivered a true copy of the foregoing Motion via electronic mail to the parties on the Service List for Docket 5088.



Nancy J. Russolino

REDACTED DOCUMENT³

REG Open Enrollment Cost Data

REG open enrollment bid applications require information on the project's total development cost, and the specific carport structure costs included in the total project costs. From this data, we can assess the incremental average cost of carport structures, as shown in Table 1.

Table 1: Incremental Costs of Projects Submitting REG Applications

Renewable Energy Class	N	Average (\$/kW)	Weighted Average (\$/kW)
Commercial Solar (251-999 kW DC)	3	\$950	\$723
Large Solar (1,000-5,000 kW DC)	1		

The results on a weighted average basis are notably lower than the incremental costs revealed through the survey and interview results and represent actual projects in Rhode Island. We use the cost data to model cost-based adder levels given the direct applicability of these projects to the REG Carport Adder Pilot. However, we acknowledge that the open enrollments data include only four projects, a very small data set from which to draw meaningful conclusions.

³ Note: This Document is an excerpt from a previously filed document titled "KD Schedule 1 – REDACTED 2020_REG_Carport_Pilot_Evaluation_Report". That document was electronically served to the Docket 5088 Service List on November 17, 2020.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the cover letter and any materials accompanying this certificate was electronically transmitted to the individuals listed below.



Nancy J. Russolino

December 3rd, 2020
Date

Docket 5088 - 2021 Renewable Energy Growth Program Service List as of 12/2/2020

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